IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

Bail Appl..No. 891 of 2007()

CRIME NO.47/07 OF MANJERI POLICE STATION

PETITIONERS/ACCUSED NOS.3, 5 AND 6

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1. KHADEEJA C., AGED 60 YEARS,
   W/O. KUNHAPPUTTY HAJI, CHATHOLI HOUSE,
   THRIKKALANGODE AMSOM, ERNAD TALUK.

2. SUJEELA C., AGED 32 YEARS,
   W/O. C.MOIDEEN, CHATHUPURAYIL HOUSE,
   KOLATHAIN, KOZHIKODE.

3. SAHEERA FIROZ, AGED 26 YEARS,
   W/O. FIROZ, MUSALIYARAKAM HOUSE,
   MUKKOM, KOZHIKODE.

BY ADV. SRI.M.K.DAMODARAN (SR.)
SRI.SOJAN MICHEAL

RESPONDENTS: RESPONDENT/COMPLAINANT

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY DIRECTOR GENERAL OF PROSECUTIONS SRI.P.G.THAMBI

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21/02/2007, ALONG WITH BA NO. 983 OF 2007 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Bail Application NOs. 891 of 2007

&

983of 2007

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DATED: 21-02-2007

O R D E R

These are applications for anticipatory bail. The petitioners in B.A. 891 of 2007 are accused Nos. 3, 5 and 6 in Crime No. 47/07 of Manjeri Police Station for offences punishable under Secs. 498 A, 323 and 313 read with Sec. 34 I.P.C. They are the mother-in-law and two of the sisters-in-law of the de facto complainant namely Aysha Sabna. The petitioners in 983/07 are accused Nos. 2 and 4 who are the father-in-law and the husband of the 6th accused, one of the sister-in-law of the de facto complainant.

2. Sri. P.G. Thambi, the learned Director General of Prosecutions vehemently opposed the application for anticipatory bail alleging that this was a love marriage in which the de facto complainant who hails from a poor family was badly ill-treated in her matrimonial home by her husband and in-laws and her husband has recently pronounced 'talaq' unilaterally and has no

looking forward to contract another marriage from a rich family.

3. The following facts are not in dupute:-

The marriage between the de facto complainant Aysha Sabna and the first accused Safeer was on 30-01-2000. It was a love marriage and the de facto complainant hails from a poor family. On 12-4-2004 there was an induced abortion of her pregnancy. Some time in January 2005 she has left the matrimonial home and has gone over to her parental home. On 7-11-2006 the first accused has pronounced 'talaq' of the de facto complainant. The present case originated in the form of a private complaint filed on 24-1-2007 before the Chief Judicial Magistrate, Manjeri and was forwarded to the police under Sec. 156 (3) Cr.P.C.

4. As mentioned earlier, the petitioners in B.A. 891/07 who are none other than the mother-in-law and sisters-in-law of the de facto complainant. The two sisters-in-law are stated to be residing at Kozhikode where as the matrimonial home of the de facto complainant is near Manjeri. One of the husband of the sisters-in-law of the de facto complainant is the 6th accused who is

a doctor employed in the Medical College Hospsital, Kottayam. The second accused who is the father-in-law of the de facto complainant is stated to be the Panchayath President. Going by the avermits in the complaint the de facto cokmplainant was ill0-treated by her husband and in-laws alleging that she did not bring anything by way of dowry and they used to compare with the wife of one of the husband's brother who had obtained fabulous amounts, ornaments and a car by way of dowry. As per her allegation that she was subjected to forcible abortion on 12-4-2004, prima facie, the letters alleged to have been sent by her to her husband and produced as Annexure I and II in B.A. 983/07 will go to show that it was a forcible act, presumably, undergone by her after due consultation with her husband. The first accused who is the hudsband of the de facto complainant is not an applicant for anticipatory bail before this Court. There might have been postnuptial bickerings between the husband and wife and between the wife and her in-laws as happens in every family. But the averments in the complaint are not serious enough to refuse anticipatory bail to the petitioners who are the in-laws of the de facto complainant. In the case of the petitioners in B.A.

891/07, they are entitled to the benefit of the proviso to Sec. 437 Cr.P.C. as well. Under these circumstances, I am inclined to grant anticipatory bail to the petitioners. Accordingly, a direction is issued to the investigating officer to release the petitioners on bail for a period of one month in connection with in the event of their arrest in connection with the above case on each of them executing a bond for Rs. 10,000/- (Rupees ten thousand only) with two solvent sureties each for the like amount to the satisfaction to the arresting officer and subject to the following conditions:

1. Accused Nos. 2 and 4 shall report before the Investigating Officer between 9 a.m. and 11 a.m. on all Sundays until further orders.

2. Petitioners shall make themselves available for interrogation as and when required by the Investigating Officer.

3. Petitioners shall not influence or intimidate the prosecution witnesses nor shall they attempt to tamper with the evidence for the prosecution.

4. Petitioners shall not commit any offence while on bail.

5. Petitioners shall surrender before the Magistrate concerned and seek regular bail in the meanwhile.

If the petitioners commit breach of any of the above conditions, the bail granted to them shall be liable to be cancelled.

This application is allowed as above.

V.RAMKUMAR,
JUDGE.

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